

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1792

SPONSOR: Senator Garcia

SUBJECT: Criminal Justice Training and Standards Commission

DATE: March 11, 2004 REVISED: 03/17/04 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 1792 amends some of the duties of the Criminal Justice Standards and Training Commission, changes the composition of the commission, and specifies certain procedural aspects of commission investigations.

This bill substantially amends the following sections of the Florida Statutes: 943.11 and 943.1395.

II. Present Situation:

The Criminal Justice Standards and Training Commission is established pursuant to s. 943.11, F.S., and has a number of responsibilities relating to the training, certification, and discipline of full-time, part-time, and auxiliary law enforcement officers, correctional officers, and correctional probation officers.

Section 943.11(1)(a), F.S., specifies that the commission is to have a membership of 19 composed of the following persons:

- the Secretary of the Department of Corrections or designated assistant,
- the Attorney General or designated assistant,
- the Commissioner of Education or designated assistant,
- the Director of the Florida Highway Patrol,
- 3 county sheriffs,
- 3 chiefs of police,
- 4 law enforcement officers who are not a sheriff or chief of police, and 3 of whom hold the rank of sergeant or below,

- 2 correctional officers, including one administrator of a state correctional institution and 1 officer holding the rank of sergeant or below,
- 1 training center director,
- 1 person in charge of a county jail, and
- 1 resident of Florida who does not fall into any of the other categories.

The positions filled by the sheriffs, chiefs of police, law enforcement officers, correctional officers, training center director, county jail administrator, and citizen member are appointed by the governor.

One of the commission's primary functions is the review of agency disciplinary actions and administration of appropriate administrative sanctions in instances when an officer is found in violation of Florida Statutes or commission standards. Section 943.1395(5), F.S., requires an employing agency to conduct an internal investigation if it has cause to suspect that an officer is not in compliance with, or has failed to maintain compliance with, ss. 943.13(4) or (7), F.S.

Section 943.13, F.S., sets forth the minimum qualifications for employment or appointment as law enforcement or correctional officers. Specifically, s. 943.13(4), F.S., requires that the officer not have been convicted of any felony or of a misdemeanor involving perjury or false statement, or have received a dishonorable discharge from the Armed Forces. Section 943.13(7), F.S., states that an officer must have "good moral character."

If the employing agency finds that the officer was not in compliance, the investigative report and supporting information must be submitted to the commission, according to commission rules. The employing agency is also required to inform the commission of the separation of an officer from employment for any reason. Section 943.1395(6), F.S., requires the commission to investigate the circumstances of the separation to determine whether there are grounds to revoke the officer's license or to take other disciplinary action. The commission is also required to investigate cases that are referred by the Governor, and is permitted to investigate other verifiable complaints. The commission indicates that approximately 65 percent of investigations are generated by reports from employing agencies that report disciplinary action taken against certified officers.

Section 943.1395(6), F.S., mandates revocation of the certification of an officer who has been convicted of any felony or misdemeanor involving perjury or false statement, or who has received a dishonorable discharge from the United States Armed Forces. Section 943.1395(7), F.S., provides a range of disciplinary actions that may be taken against the license of an officer who has been found not to have maintained good moral character. The statute sets forth permissible penalties ranging from the least severe penalty of issuance of a reprimand to the most severe penalty of revocation of certification.

Pursuant to s. 943.1395(8), F.S., the commission has adopted rules for administering disciplinary action, including penalties and aggravating and mitigating factors that may be considered. The commission has adopted Rule 11B-27.005, F.A.C., to establish penalties for specific offenses. In some cases the rule specifies only one permissible penalty, while for other offenses a range of permissible penalties is set forth. Rule 11B-27.005, F.A.C., also sets forth aggravating and mitigating factors that are to be considered by the commission in setting a penalty.

If an employing agency takes disciplinary action against an officer and the officer's employment is continued or reinstated, the commission may appoint a probable cause panel to review the sustained charges and penalty. If the penalty administered by the agency conforms to the disciplinary penalty provided by commission rule, s. 943.1395(8)(c), F.S., provides that the commission is to notify the officer and the employing agency that no further action is to be taken. In practice, the commission considers aggravating and mitigating factors and may take further action if certain factors are present.

Section 943.09, F.S., established the Criminal Justice Professionalism Program within the Department of Law Enforcement. The staff of this division within FDLE serves as the staff for the Criminal Justice Standards and Training Commission, and, among other duties, reviews the agency action and disciplinary penalty in a case and makes a recommendation to the commission for the consideration of the commission, usually by a "Probable cause panel" appointed by the commission chair. *see* s. 943.1395 (8)(c), F.S. The Professionalism Program also administers the FDLE Academy and Leadership Center.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 943.11, F.S., to change the composition of the Criminal Justice Standards and Training Commission. The Attorney General will be allowed to appoint a "designee," rather than a "designated assistant," which allows the appointment of someone not employed by that agency. The Commissioner of Education will no longer be represented on the Commission. The number of law enforcement officers on the commission is increased from four to five, with all required to be of the rank of sergeant or below. Previously, one of the four officers could be above the rank of sergeant.

Section 2 of the bill amends s. 943.1395, F.S., to provide that the commission may inspect the employing agency's records to ensure compliance with s. 943.1395(5), F.S., which requires agency investigation of officers whom are suspected of not meeting the requirements of ss. 943.13(4) and (7), F.S. (misdemeanor involving perjury or false statement, any felony, or moral character issues).

It also provides for a tolling of the time limits on the commission's investigation and determination of matters that may lead to an officer's certification revocation under s. 943.1395(6)(a), F.S., when an appeal is pending. It also provides for an officer or his or her attorney to review documents and other related information gathered during the investigation, not more than 30 days before the results are presented to a probable cause panel.

The bill requires the commission to conduct a workshop to "receive public comment" and evaluate disciplinary guidelines and penalties every other year. A twelve-member advisory panel, appointed by the commission chair, will make recommendations to the commission concerning disciplinary guidelines.

Under the provisions of the bill, if an employing agency disciplines an officer but keeps the officer employed, the Criminal Justice Professionalism Program, rather than a probable cause panel, will review the agency action for compliance with commission rules. The commission is

authorized to adopt rules establishing the notification procedures provided in s. 943.1395(8)(d), F.S.

Section 3 of the bill provides the effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Department of Law Enforcement expects no fiscal impact from this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Criminal Justice:

Clarifies the rule-making authority of the commission so that that authority would not be interpreted to be limited to only the notification function provided in subsection (8) of s. 943.1395, F.S., as amended by the bill.